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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,798	07/31/2006	Uwe Peter Braun	BRAUN, U-2 PCT	5320
25889	7590	02/07/2008		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER WANG, JACK K	
			ART UNIT 4154	PAPER NUMBER
			MAIL DATE 02/07/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,798	<b>Applicant(s)</b> BRAUN, UWE PETER	
	<b>Examiner</b> JACK K. WANG	<b>Art Unit</b> 4154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/31/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/31/2006</u> .   | 6) <input type="checkbox"/> Other: _____.                         |

### **DETAILED ACTION**

1. Claim 1-12 are Cancelled.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: misspelled word of “band width” instead of -- bandwidth -- (Page 9 lines 21). Appropriate correction is required.

#### ***Claim Objections***

3. Claim 13 is objected to because of the following informalities: misspelled word of “driver s” instead of -- driver’s -- (lines 3, 8, and 10). Appropriate correction is required.
4. Claim 13 is objected to because of the following informalities: misspelled word of “finger print” instead of -- fingerprint --. Appropriate correction is required.
5. Claim 14 is objected to because of the following informalities: misspelled word of “control 5 device” instead of -- control device --. Appropriate correction is required.
6. Claim 15 is objected to because of the following informalities: misspelled word of “the 10 forward gears” instead of -- the forward gears --. Appropriate correction is required.
7. Claim 18 is objected to because of the following informalities: misspelled word or “infra red “instead of -- infrared --. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 13-14, 16-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenstrand (Pub # US 2005/0185243 A1) in view of Murakami et al. (Pub # US 2007/0063816 A1).

Consider claim 13, Wenstrand clearly show and disclose A device for determining the driving capability of a driver in a vehicle with an illumination device for illuminating at least one of the driver s eyes, a picture taking device (camera) for taking pictures of the illuminated eye [0002 lines 4-9], an evaluation device (processor 14) which serves to evaluate the pictures taken by the picture taking device (camera), and a data storage (database 16) [0016 lines 1-5], the illumination device illuminating with flash type (flash photography) light or intermittently at least one of the driver s eyes , the evaluation device comparing the measured values taken for the driver s pupil reaction by means of the picture taking device with a normal value for a pupil reaction stored in the data storage (database), and when the normal value is not reached by the measured values (threshold) for the pupil reaction [0026 lines 4-14], having an effect upon the control device such that the vehicle is prevented from starting up, or the vehicle in operational state is prevented from being driven on after it has stopped [0019 lines 15-19].

Wenstrand does not teach wherein biometric data of at least one finger print can be stored in the date storage and biometric data of a fingerprint of the driver in question can be determined by means of a sensor, and/or biometric data for at least one person relating to their iris structure, eye colour, distance between the eyes, eye area, nose size, mouth size and/or face shape can be stored in the data storage an corresponding biometric data of the driver in question can be determined by the picture taking device, the evaluation device for identifying the driver comparing the biometric data established with the stored biometric data, and if the data

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compared do not correspond within pre-specified tolerance limits having an effect upon at least one control device such that the vehicle is prevented from starting up, or the vehicle in operational state is prevented from being driven on after it has stopped.

In the same field of endeavor, Murakami et al. teaches a biometric data of at least one fingerprint [0010 lines 4-9] can be stored in the data storage (72, Fig. 1) and biometric data of a fingerprint of the driver in question can be determined by means of a sensor, and/or biometric data for at least one person relating to their iris structure, eye colour, distance between the eyes, eye area, nose size, mouth size and/or face shape [0012 lines 1-5] can be stored in the data storage (memory module) and corresponding biometric data of the driver in question can be determined by the picture taking device (biometric sensor), the evaluation device for identifying the driver comparing the biometric data established with the stored biometric data, and if the data compared do not correspond within pre-specified tolerance limits having an effect upon at least one control device such that the vehicle is prevented from starting up, or the vehicle in operational state is prevented from being driven on after it has stopped [0019] for the benefit of confirm and verify identity of driver or operator.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine a biometric data of at least one finger print can be stored in the data storage and biometric data of a fingerprint of the driver in question can be determined by means of a sensor, and/or biometric data for at least one person relating to their iris structure, eye colour, distance between the eyes, eye area, nose size, mouth size and/or face shape can be stored in the data storage and corresponding biometric data of the driver in question can be determined by the picture taking device, the evaluation device for identifying the driver comparing the

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biometric data established with the stored biometric data, and if the data compared do not correspond within pre-specified tolerance limits having an effect upon at least one control device such that the vehicle is prevented from starting up, or the vehicle in operational state is prevented from being driven on after it has stopped as shown in Murakami et al., in Wenstrand device for the benefit of confirm and verify identity of driver or operator.

Consider claim 14, Wenstrand clearly shown and discloses the device, wherein an engine (car) start up can be prevented (disable) by means of the control device [0019 lines 17-19].

Consider claim 16, Wenstrand clearly shown and disclose the device, wherein when the measured values for the pupil reaction fail to reach the normal value (threshold not satisfied) for a pupil reaction stored, the evaluation device actuates a signal transmitter which emits an acoustic and/or optical warning signal (alarm) [0026 lines 16-21].

Consider claim 17, Wenstrand clearly shown and disclose the device, wherein the illumination device has at least one flash light (flash photography) source [0026 lines 12-14].

Consider claim 18, Wenstrand clearly shown and discloses the device, wherein the illumination device has at least one infra red light source which emits heat rays outside of the visible colour spectrum, the picture taking device being formed by a camera (CCD) device sensitive to infrared [0022 lines 9-13].

Consider claim 19, Wenstrand clearly shown and disclose the device, wherein the picture taking device (detector/light source) (12, Fig. 1), the evaluation device (processor) (14, Fig. 1) and/or the data storage (database) (16, Fig. 1) are provided with at least one interface for signal and/or data transfer.

Consider claim 21, Wenstrand clearly shown and disclose the device, wherein the evaluation device (detector) actuates an illumination device (lighting) aligned or alignable to the visual field of the driver and which emits a diffuse, wide area of light which counters the driver's tiredness dependent upon a change to the visible size of the cornea (retinas) surface, the lid closure frequency and/or the lid closure duration of the eye and/or the occurrence of pupil diameter oscillations [0026 lines 4-21].

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenstrand (Pub # US 2005/0185243 A1) in view of Murakami et al. (Pub # US 2007/0063816 A1) as applied to claim 13 above, and further in view of Seike et al. (Pub # US 2004/0263323 A1).

Consider claim 15, Wenstrand and Murakami et al. combined reference teaches similar invention except the device, wherein by means of the control device engagement of at least the forward gears of the manual or automatic transmission of the vehicle can be blocked.

In the same field of endeavor, Seike et al. teaches the device, wherein by means of the control device engagement of at least the forward gears of the manual or automatic transmission of the vehicle can be blocked [0104] for the benefit of prevent unauthorized use of motor vehicle or harmful operating condition.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the device, wherein by means of the control device engagement of at least the forward gears of the manual or automatic transmission of the vehicle can be blocked as shown in Seike et al., in Wenstrand and Murakami et al. device for the benefit of prevent unauthorized use of motor vehicle or harmful operating condition.

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11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenstrand (Pub # US 2005/0185243 A1) in view of Murakami et al. (Pub # US 2007/0063816 A1) as applied to claim 13 above, and further in view of Yuhara (Pub # US 2005/0047628 A1).

Consider claim 20, Wenstrand and Murakami et al. combined reference teaches similar invention except the device, wherein the illumination device and/or the picture taking device are integrated in a vehicle sun visor provided for the driver.

In the same field of endeavor, Yuhara teaches the illumination device and/or the picture taking device (camera 110) are integrated in a vehicle sun visor provided for the driver [0057 lines 1-4] for the benefit of compact and efficient use of cargo space inside the vehicle.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the illumination device and/or the picture taking device are integrated in a vehicle sun visor provided for the driver as show in Yuhara, in Wenstrand and Murakami et al. device for the benefit of compact and efficient use of cargo space inside the vehicle.

12. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenstrand (Pub # US 2005/0185243 A1) in view of Murakami et al. (Pub # US 2007/0063816 A1) as applied to claim 13 above, and further in view of Nath et al. (Pub # US 2005/0068185 A1).

Consider claim 22, Wenstrand and Murakami et al. combined reference teaches similar invention except the device, wherein if there is a functional failure of the picture taking device and/or a functional failure of the illumination device and/or a functional failure of the signal transmitter emitting an acoustic and/or optical warning signal, the evaluation device has an effect



upon at least one control device such that the vehicle is prevented from starting up or a vehicle in operational state is prevented from being driven on after it has stopped.

In the same field of endeavor, Nath et al. teaches the device, wherein if there is a functional failure of the picture taking device and/or a functional failure of the illumination device and/or a functional failure of the signal transmitter emitting an acoustic and/or optical warning signal, the evaluation device has an effect upon at least one control device such that the vehicle is prevented from starting up or a vehicle in operational state is prevented from being driven on after it has stopped [0014] for the benefit of provide the vehicle safety to driver and public.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the device, wherein if there is a functional failure of the picture taking device and/or a functional failure of the illumination device and/or a functional failure of the signal transmitter emitting an acoustic and/or optical warning signal, the evaluation device has an effect upon at least one control device such that the vehicle is prevented from starting up or a vehicle in operational state is prevented from being driven on after it has stopped as shown in Nath et al., in Wenstrand and Murakami et al. device for the benefit of provide the vehicle safety to driver and public.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Griesinger et al. (US Patent # 6,097,295) "Apparatus for determining the alertness of a driver".

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b. Ferrone et al. (Pub # US 2005/0264426 A1) "System and method for monitoring driver fatigue".

c. Prokoski (US Patent # 7,027,621 B1) "Method and apparatus for operator condition monitoring and assessment".

d. Gotfried (Pub # US 2004/0085211 A1) "System for preventing access".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACK K. WANG whose telephone number is (571)272-1938.

The examiner can normally be reached on M-F 7:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Ortiz can be reached on 571-272-1206. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JKW/

/Angela Ortiz/

Supervisory Patent Examiner, Art Unit 4154